

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES GARNER,

Petitioner,

v.

RALPH DIAZ,

Respondent.

No. 2:20-cv-02143 DB P

ORDER

Petitioner, a state prisoner proceeding pro se, is proceeding with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 21, 2021, respondent filed an answer to the petition. (ECF No. 16.) On December 23, 2021, respondent also filed a notice of lodging with the court. (ECF No. 17.) Both the answer and the notice of lodging contain a declaration of service stating that respondents served these documents on petitioner by mailing them to petitioner's address of record. (ECF No. 16 at 28; ECF No. 17 at 3.)


Petitioner now filed a letter with the court stating that he has not received either of these documents. (ECF No. 20.) Petitioner asks that this letter be considered a request for "discovery." (*Id.* at 1.) Though petitioner uses the term discovery, it appears he is actually requesting re-service of these documents.

The court will direct respondent to re-serve respondent's answer (ECF No. 16) and respondent's notice of lodging (ECF No. 17) on petitioner. While it appears that respondent filed

1 a sufficient proof of service with these documents, petitioner has represented that he has not  
2 received these documents. If true, this could pose legitimate challenges to petitioner's ability to  
3 fully litigate this action.

4 Accordingly, IT IS HEREBY ORDERED that respondent shall re-serve their answer  
5 (ECF No. 16) and the notice of lodging (ECF No. 17) on the petitioner. Respondent should file  
6 notice with the court when service has been completed.

7 Dated: February 24, 2023

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11 DEBORAH BARNES  
12 UNITED STATES MAGISTRATE JUDGE  
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17 DB/DB Prisoner Inbox/Habeas/R/garn2143.reserve  
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